



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2011-0826; FRL-9689-7]

**Approval and Promulgation of Air Quality Implementation Plans;
Michigan; PSD Regulations**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the Prevention of Significant Deterioration (PSD) construction permit program of State of Michigan's State Implementation Plan (SIP) to meet the Clean Air Act (CAA) requirements for PSD in Class I Areas attaining the National Ambient Air Quality Standards.

DATES: Comments must be received on or before **[insert date 30 days after publication in the Federal Register]**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R05-OAR-2011-0826, by one of the following methods:

1. www.regulations.gov: Follow the on-line instructions for submitting comments.
2. E-mail: damico.genevieve@epa.gov.
3. Fax: (312)385-5501.
4. Mail: Genevieve Damico, Chief, Air Permits Section, Air Programs Branch (AR-18J), U.S. Environmental Protection

Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

5. Hand Delivery: Genevieve Damico, Chief, Air Permits

Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 AM to 4:30 PM, excluding Federal holidays.

Instructions: Direct your comments to Docket ID No.

EPA-R05-OAR-2011-0826. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through www.regulations.gov or e-mail. The www.regulations.gov website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment

directly to EPA without going through www.regulations.gov your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional instructions on submitting comments, go to Section I of the SUPPLEMENTARY INFORMATION section of this document.

Docket: All documents in the docket are listed in the www.regulations.gov index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is

open from 8:30 AM to 4:30 PM, Monday through Friday, excluding Federal holidays. We recommend that you telephone Constantine Blathras, Environmental Engineer, at (312) 886-0671 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Constantine Blathras, Environmental Engineer, Air Permits Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-0671, Blathras.Constantine@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, whenever "we," "us," or "our" is used, we mean EPA. This supplementary information section is arranged as follows:

- I. What Should I Consider as I Prepare My Comments for EPA?
- II. What Revisions Are Included in the Proposed Approval?
- III. What Action is EPA Taking?
- IV. Statutory and Executive Order Reviews.

I. What Should I Consider as I Prepare My Comments for EPA?

When submitting comments, remember to:

- 1. Identify the rulemaking by docket number and other identifying information (subject heading, Federal Register date and page number).

2. Follow directions - EPA may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
3. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
4. Describe any assumptions and provide any technical information and/or data that you used.
5. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
6. Provide specific examples to illustrate your concerns, and suggest alternatives.
7. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
8. Make sure to submit your comments by the comment period deadline identified.

II. What Revisions Are Included in the Proposed Approval?

On September 2, 2011, the Michigan Department of Environmental Quality (MDEQ) submitted to EPA for approval a revision to the Michigan SIP consisting of amendments to Michigan Air Pollution Control Rules, Part 18, PSD, and Part 19, PSD for major sources. Specifically, Michigan submitted a revision to modify Michigan Air Pollution Control Rule R.

336.2816 to make it consistent with the Federal requirements for PSD in Class I Areas. Additionally, Michigan submitted amendments to modify Michigan's Air Pollution Control Rules R. 336.2801 and R. 336.2910 to add a significance threshold of 10 tons per year for particulate matter less than 2.5 microns in size (PM_{2.5}). However, EPA is not proposing action on the particulate matter amendments in this rulemaking action; we will propose action at a later date, when Michigan submits additional rules pertaining to its definitions for PM_{2.5}.

III. What Action is EPA Taking?

EPA is proposing to approve Michigan's request to revise its SIP to add rule R. 336.2816 to be consistent with Federal PSD regulations in 40 CFR 51.166(p), that require state PSD programs to have a mechanism in place to coordinate and consult with Federal land managers of Class I PSD Areas. On September 16, 2008, EPA proposed to disapprove R 336.2816 from Michigan's SIP submittal because it did not provide for such a mechanism. Michigan has now revised R. 336.2816 to be consistent with the Federal requirement. With this change, EPA is proposing to fully approve the revised R. 336.2816 for its PSD program. On March 25, 2010, EPA published a direct final approval to convert a conditional approval of the Michigan PSD SIP to full approval under section 110 of the CAA. In that notice, EPA stated that

we would be taking a separate action on rule R. 336.2816(2) through (4) (requirements relating to Class I Areas).

EPA is not proposing to approve Michigan's request to revise its SIP by adding requirements for a significance level for PM_{2.5}. EPA has established a significance threshold to limit the applicability of PSD regulations to sources with emissions above the significance level. To be consistent with the Federal requirements, Michigan amended R. 336.2801 and R. 336.2901 to add the significance threshold for PM_{2.5}. Because Michigan is planning to submit additional state rules as revisions to its SIP for precursors of PM_{2.5}, EPA will defer action on this matter.

EPA is also proposing to approve the removal of R. 336.2830 and R. 336.2910 from the Michigan SIP. Appeals of state permit actions will be handled through the state's appeal process.

IV. Statutory and Executive Order Reviews.

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. This action merely approves state law as meeting Federal requirements and does not impose additional requirements

beyond those imposed by state law. For that reason, this action:

- is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

In May 2011, EPA issued its policy on consultation and coordination with Indian tribes. EPA explained that its policy is to consult on a government to government basis with Federally recognized tribal governments when EPA actions and decisions may affect tribal interests. Accordingly, EPA sent an invitation to consult with potentially interested tribes, and subsequently engaged in consultation with representatives of the Forest

County Potawatomi Community regarding the Michigan proposed SIP revisions.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: June 11, 2012.

Susan Hedman,
Regional Administrator, Region 5.

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